

**By-law No, 635-2005
of the Village of Lumby
Burning By-law**

A Bylaw of the Village of Lumby in the Province of British Columbia, for the purpose of establishing Burning Regulations in and for the Village of Lumby.

WHEREAS the Community Charter, being Bill 14, Section 7, passed by the Province of British Columbia May 8, 2003, as amended, provides that a Council of a Municipality may pass by-laws for municipal purposes providing for services, laws and other matters for community benefit and for fostering the economic, social and environmental well-being of its community: and

WHEREAS the municipal Council of the Village of Lumby wishes to establish burning regulations within the Village of Lumby;

NOW THEREFORE, the Council of the Village of Lumby, in the Province of British Columbia, duly assembled, hereby enacts as follows:

Section 1. Name of By-law

- 1.1 This Bylaw may be cited as the “Burning Bylaw”

Section 2. Definitions

- 2.1 (a) Acceptable Fire Pit, means an outdoor receptacle that meets the following specifications:

- i. a minimum of 3 meters clearance, measured from the nearest fire pit edge is maintained from buildings, property lines or other combustible material, including standing timber or trees;
- ii. the fire pit height does not exceed .6 metre when measured from the surrounding grade to the top of the pit opening;
- iii. the fire pit opening does not exceed 1 metre in width or in diameter when measured between the widest points or outside edges;
- iv. the fire pit installation has enclosed sides made from bricks, concrete blocks, heavy gauge metal, or other non-combustible materials acceptable to the Fire Chief or Fire Inspector; and
- v. a spark arrestor mesh screen with openings no larger than 1.25 cm. And constructed of expanded metal (or equivalent non-combustible material) is used to cover the fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks;
- vi. the flames shall not exceed one (1) metre in height.

- (b) Burnable Debris, means those materials permitted to be burned in accordance with the statutes and bylaws written to protect and enhance the environment,

and shall include but are not limited to materials described as;

- i. grass and weeds;
 - ii. leaves and tree prunings;
 - iii. wood material from the construction or demolition of buildings which does not contain wood preservatives;
 - iv. wood material from sawmills or planing mills, subject to Provincial requirements for industry.
- (c) “Village” means the Village of Lumby
- (d) “Council” means the Council of the Village of Lumby
- (e) “Chief Administrative Officer” means that person appointed to the position and title of Administrator by the Municipal Council of the Village of Lumby and included any person appointed by the Chief Administrative Officer to act as his appointee.
- (f) “Open Fire” means any fire which is not an Incinerator Fire, Public Park Site Fire and which, without limiting the generality of the foregoing shall include grass fires, forest and brush fires, running fires, structure fires, building fires, wood scrap fires, ground thawing fires and chattel fires.
- (g) “Incinerator Fire” means a fire that is confined within a non-combustible structure or container that has the draft and smoke vents thereof covered with a heavy gauge metal screen having a mesh size not larger than 13 millimetres and which is ventilated in such a manner as to preclude the escape of combustible materials including ash, which fire is set for the purpose of burning refuse, excepting plastic products.
- (h) “Portable Appliance” means any appliance sold or constructed for the purpose of cooking food in the out-of-doors.
- (i) “Prohibited Debris” means any material that when burned, will result in the release to the atmosphere of dense smoke or toxic air contaminants in accordance with statutes and bylaws written to protect and enhance the environment, and shall include but are not limited to materials described as:
- i. animal cadavers
 - ii. animal manure
 - iii. chemicals and chemical containers
 - iv. combustible material in automobile bodies
 - v. combustible material in automobiles
 - vi. household refuse
 - vii. non-wooden material
 - viii. paints and painting materials

- ix. pathological waste
 - x. rubber or plastic, or anything containing or coated with rubber or plastic or similar substances
 - xi. tires
 - xii. toxic substances
 - xiii. used oil , which includes furnace oil, only in an approved furnace
 - xiv. wood or wood products containing substances for the purpose of preserving wood and
 - xv. or toxic burning
- (j) “Public Park Site Fires” means a fire on land owned or leased by the Village or its agents for recreational purposes and is confined to either a non-combustible container supplied by the Village, as approved by the Fire Chief, or a Portable Appliance, which is set for the purpose of cooking food, obtaining warmth or viewing for pleasure. Such fire may only be fueled with seasoned wood, charcoal, natural gas or propane.
 - (k) “Fire Chief” means the designated person for the Village of Lumby that performs the duties and responsibilities of a Fire Chief, for the Lumby and District Fire Department, or his/her designate
 - (l) “Member” means any person who is a duly appointed member of the Lumby and District Fire Department.
 - (m) “Peace Officer” means a member of the Royal Canadian Mounted Police.
 - (n) “Bylaw Officer” means a Bylaw Enforcement Officer is a person appointed under the Community Charter by the Municipal Council of the Village of Lumby and in the execution of enforcement duties, responsible for the preservation and maintenance of the public peace.
 - (o) “Fire Inspector” means the designated person for the Village of Lumby that performs the duties and responsibilities of a Fire Inspector, on behalf of the Village of Lumby.
 - (p) “Running Fire” means a fire burning without being under the proper control of any person.
 - (q) “Violation Tag” means a tag or similar document issued by the Village of Lumby pursuant to the Community Charter.

Section 3 Open Air Fires

- 3.1 No person shall permit an Open Air Fire or any other fire upon land owned

,occupied or under his or her control within the Village, unless a permit has been obtained, the provisions outlined on the permit are complied with, and the burnable debris is burned.

3.2 Notwithstanding Section 3.1 a permit shall not be required under this Bylaw to conduct:

- (a) the cooking of food using a portable barbecuing appliance
- (b) recreational burning or the cooking of food in Acceptable Fire Pits or Acceptable Fire Places, provided:
 - i only clean fuel is used such as natural gas, dry wood or charcoal in amounts which will be contained within the fire pit or fireplace below the mesh screen;
 - ii the fire pit or fireplace is not used to burn prohibited debris;
 - iii a means of controlling or extinguishing the fire is available on the property and within reasonable distance from where the fire occurs; and
 - iv a responsible adult shall be present when the fire is burning;
 - v burning in fireplaces in or attached to dwellings as provided by legislation;
 - vi burning in Village owned campgrounds and parks where fireplaces, stoves and fire pits are provided by or approved by the Village;
 - vii burning in an incinerator for which a permit to construct and licence to operate has been issued pursuant to the applicable legislation; or
 - viii burning by the Fire Department for the purpose of training its members.

3.3 The exception to Section 3.1 and 3.2, being the Provisions of the Wildfire Act, Chapter 31, SBC 2004, Part 2, Authority of Government for Fire Prevention and Fire Control, is that when the Provincial Forest Service declares restrictions on open fires, those restrictions shall apply to the Village of Lumby.

4. Procedure to Obtain Open Air Fire Permit

4.1 Any person wishing to obtain an open Air Fire Permit must apply to the Fire Chief of the Lumby and District Fire Department, one week prior to the burning date.

4.2 Each application for an Open Air Fire Permit must contain the following Information, as to Schedule "B" of By-law 635-2005:

- a) the name and address of the applicant, and the name and address of the owner of the land on which the applicant proposes to set a fire;
 - b) the legal and municipal description of the land on which the applicant proposes to set a fire;
 - c) the period of time for which the fire permit is required;
 - d) the precautions that will be taken by the applicant to ensure that the proposed fire remains under his or her control;
 - e) the signature of the applicant; and names of persons attending the fire;
 - f) the written consent to the proposed fire by the owner of the land(if different than the applicant).
- 4.3 Upon receipt of an application for a permit, the Fire Chief shall consider the permit application, and may, pursuant to the provisions of this Bylaw and the BC Fire Code or Waste Management Act, Open Burning Smoke Control Regulation;
- a) refuse to grant a permit;
 - b) grant a permit with or without terms and conditions as he deems appropriate; or
 - c) determine that a permit is not required.
- 4.4 Without limiting the generality of Section 4, if a fire pit is not an acceptable fire pit or if a fireplace is not an acceptable fireplace, the Fire Chief may issue a permit if satisfied that the non-conforming fire pit or fireplace meets appropriate safety standards.
- 4.5 The permit fee shall be as set out in Schedule “A” and shall be paid upon approval of the permit application.
- 4.6 A permit shall not be transferable.
- 4.7 Permits issued pursuant to this Bylaw are valid for such period of time as shall be determined and set by the Fire Chief and the Open Air Fire Permit shall have endorsed thereon the period of time for which the said permit is valid.
- 4.8 The Fire Chief may extend in writing the period of time that an open Air Fire Permit is valid provided the Fire Permit has not expired.
- 5.0 Offences and Penalties
- 5.1 The Fire Chief may terminate, suspend or cancel and Open Air Fire Permit upon contravention of any provision of this Bylaw or the BC Fire Code or Waste Management Act or any terms or conditions found on the Permit.
- 5.2 A person who contravenes any provision of the Bylaw, shall be deemed to be guilty of an infraction of the Bylaw and upon a conviction, is liable to a fine of not

less than \$50 and not more than \$2,000.00. No person found guilty of an offence under this Bylaw shall be liable to imprisonment.

5.3 Where a person:

- a) fails to obtain a Permit as required under this Bylaw; or
- b) obtains a Permit as provided for in this Bylaw but fails to follow the provisions of the Bylaw and those conditions outlined on the Permit; or
- c) originally did not require a Permit, but whose actions brought an Open Air Fire under the requirement for a Permit as defined herein; and
- d) a fire beyond the control of the person or other emergency results therefrom then such person shall be liable to pay all costs of all emergency response service incurred by the Fire Services, and the Village shall be able to recover from such person all such costs as a debt owing to the municipality.

5.4 A Peace Officer or Bylaw Officer is hereby authorized and empowered to issue a Violation Tag to a person who the Peace Officer or Bylaw Officer, has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

5.5 A Violation Tag may be issued to such Person:

- a) either personally, or
- b) by mailing a copy to such person at his/her last known address.

5.6 Where a contravention of the Bylaw is of a continuing nature, further Violation Tags or Summons may be issued by a Peace Officer or Bylaw Officer, provided that no more than one Violation Tag, or Summons shall be issued for each calendar day that the contravention continues.

5.7 Where a Violation Tag is issued pursuant to this Bylaw the Person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village of Lumby the penalty specified on the Violation Tag.

9.8 Nothing in this Bylaw shall prevent a Peace Officer or Bylaw Officer from issuing a Violation Ticket for the mandatory Court Appearance of any person who contravenes any provision of this Bylaw.

10.0 Violation Ticket

10.1 If the penalty specified on a Violation Tag is not paid within the prescribed time period, then a Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the provisions of the Provincial Offences Procedures Act.

10.2 Notwithstanding Section 4 of this Bylaw, a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the Provincial

Offences Procedure Act, to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

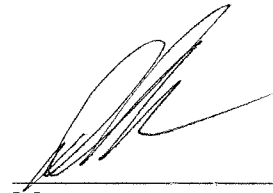
11.0 Bylaw 546 of the Village of Lumby, and amendments thereto are hereby repealed.

Read a first time this 13 day of June ,2005

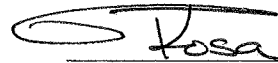
Read a second time this 13 day of June , 2005

Read a third time this 15 day of August , 2005

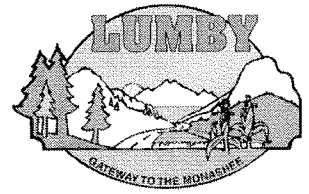
Adopted this 12 day of September, 2005



Mayor



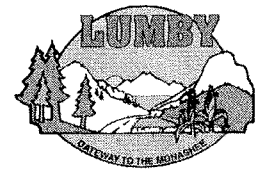
Clerk



Schedule "A"
To Bylaw 635-2005
Village of Lumby Burning By-law

Fees:

1. Violation Tag section 5.4	First Offence	\$100.00
	Second Offence	\$200.00
2. Burning Permits		\$ 25.00 /permit



Schedule "B" to the Village of Lumby Burning By-law 635-2005
LUMBY AND DISTRICT FIRE DEPARTMENT
FIRE PERMIT

Part 1 APPLICATION

I, _____, (name of registered owner/agent for the registered owner) of lands described as:
Lot _____, DL _____, LD _____, Plan _____ (the "Land" with an address of _____ (Civic Address) apply to the Lumby and District Fire Department for a permit for a fire on the Land on _____ in order to burn the following material and no other.
(Day/Month/Year)

(Address and Telephone Number of Owner) (Signature of Application)

As owner of the Land I agree to carry out any fire authorized by this permit in accordance with all relevant enactments, including the Fire Services Act of British Columbia and Regulations, the Forest Act of British Columbia and Regulations, and the Waste Management Act of British Columbia and Regulations and the Wildfire Act of British Columbia and Regulations and to release and indemnify and save harmless the Village of Lumby from any and all claims and liability which I or any other person may have against the Village of Lumby from the Fire authorized by this permit.

(Address and Telephone No. of Owner) (Signature of Registered Owner)

Part 2 PERMIT

Permission is hereby granted to carry out a fire on the Lands specified in the above application on the following dates:

_____, in order to burn the materials specified in the application and no other in accordance with the conditions listed below:

Valid Until: _____ Name of Person in Control of Fire: _____

Means of Control: _____

Location of Fire on Property: _____

Fire Chief/Designate: _____ Date Issued: _____